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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,112	10/31/2003	David P. Pollock		8919

23439 7590 08/07/2006

DENTSPLY INTERNATIONAL INC
570 WEST COLLEGE AVENUE
YORK, PA 17404

EXAMINER

KILKENNY, PATRICK J

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 08/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/698,112	Applicant(s) POLLOCK ET AL.	
	Examiner Meoghan E. MacPherson	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5 and 9-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5 and 9-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the amendment received on June 13, 2006.

Drawings

2. The drawings submitted June 13, 2006 have been accepted by the examiner.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 1, 5, 9, 11-14, 17, 18, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Mayer (US Pat. App. Pub. 2004/0259054).

Mayer discloses an ultrasonic dental scaler insert 26 comprising a tip 24, a magnetostrictive member 22, a connecting member 20, a nozzle 35, and a generally cylindrical soft grip 50 comprising rigid polymeric material as well as elastomeric polymeric material (page 1, [0002]-[0007]; page 1-2, [0025], [0027]-[0028], [0030]; see Figures 1, 11, and 12). Mayer also discloses the tip being connected to a first end of the connecting member, the magnetostrictive member being connected to a second end of the connecting member, and the nozzle having a rigid wall and being supported by the connecting member (page 1, [0005], [0024]; see Figures 11 and 12). Mayer further discloses the soft grip having a generally cylindrical rigid polymeric inner wall having a generally cylindrical channel 30 affixed/bonded

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to and supporting a generally cylindrical elastomeric outer wall 52 (page 1, [0007]; page 2, [0025], [0029]; see Figures 11 and 12). Mayer discloses that the rigid polymeric inner wall circumscribes the connector and forms a nozzle for the scaler insert (see Figures 11 and 12).

Regarding claims 1, 5, 9, 11, 13, 14, 17, 18, and 20, the method of making the dental scaler insert having a soft grip is inherently shown in the formation of the disclosed implant of Mayer, therefore these method claims are subject to the previously described rejection.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 3, 10, 15, 16, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mayer in view of Stearns'811 (US Patent No. 6,095,811). Mayer discloses the ultrasonic dental scaler insert that shows the limitations as described above; however, Mayer does not disclose the soft grip snap-fit onto the connector or the soft grip snap-fit onto the dental scaler insert or first and second half sections.

Stearns'811 teaches a gripping handle with snap-fit connections for fitting around a diagnostic instrument (col. 3, lines 6-9; col. 4, lines 11-31; see Figure 1). Stearns'811 also teaches a first 32 and second 34 half-section member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the ultrasonic dental scaler insert of Mayer to incorporate the teachings of Stearns'811 to produce a scaler soft grip that was

easily and releasably attached to and removed from the scaler insert for efficient cleaning, disposal, and reuse of the scaler.

Regarding claims 2, 3, 10, 15, 16, and 19, the method of making the method of making the dental scaler insert having a soft grip is inherently shown in the formation of the disclosed implant of Mayer, therefore these method claims are subject to the previously described rejection.

Response to Arguments

7. Applicant's arguments filed June 13, 2006 have been fully considered but they are not persuasive.

8. In response to applicants argument that the scaler disclosed by Mayer does not disclose or suggest a grip member made from two distinct components, the examiner directs the applicant's attention to page 1, sections [0005] and [0007]. Here Mayer discloses a grip "for an ultrasonic scaler comprising a rigid body having a soft exterior grip portion." Mayer identifies a two-component grip, the rigid body (first component) and a soft exterior grip portion (second component). Mayer further discloses that the grip member is made from a rigid polymeric inner wall 30 and an elastomeric outer wall 52. One of ordinary skill in the art at the time the invention was made would recognize the disclosure of a two-component grip member in Mayer.

9. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In the instant case, the applicant argues that Stearns'811 does not disclose or suggest a gripping handle where each half-section is

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made from two distinct polymeric components. Stearns'811 teaches a gripping handle 30 which includes a first half-section 32 and a second half-section 34 that snap fit together to create the gripping handle (see col. 4, lines 11-18). While Stearns'811 alone does not suggest each half-section is made from two distinct polymeric components, it is the combination of Mayer as modified by Stearns'811 which teaches a gripping member of two half-sections, each half-section comprising a rigid polymeric inner wall and an elastomeric outer wall. One of ordinary skill in the art at the time the invention was made would have found the combination of Mayer as modified by Stearns'811 obvious as one possible means to releasably attached to and removed from the scaler insert for efficient cleaning, disposal, and reuse of the scaler.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 5,964,009 to Hoepfl et al.

US Patent No. 6,447,190 to Kwitek.

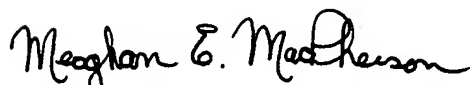
US Patent No. 6,779,937 to Lombardi et al.

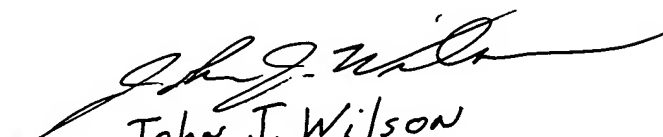
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meaghan E. MacPherson whose telephone number is (571)-272-5565. The examiner can normally be reached on Mon-Fri 9am-5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571)-272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Meaghan E. MacPherson


John J. Wilson
Primary Examiner